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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,895	02/04/2005	Fortunato Fedegari	47966.9.1	1054

22859 7590 09/13/2006

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EXAMINER

FRISTOE JR, JOHN K

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/523,895

Applicant(s)

FEDEGARI, FORTUNATO

Examiner

John K. Fristoe Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7, 11-13 and 15-21 is/are rejected.
- 7) ☒ Claim(s) 8-10 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 2-21 have been considered but are moot in view of the new ground(s) of rejection. Since the new rejections were necessitated by Applicant's amendment, the rejection has been made final.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the examiner how the sealing face can be convex as required in claim 11 as well as diverging required in claim 4.

4. Claim 15 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the examiner how a reciprocating valve that has a fixed diaphragm can also be rotatable.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 2, 3, 5, 7, 12, and 16-21 as well as claims 4 and 15 as far as they are definite, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,134,570 (Jarrett). Jarrett

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discloses a shut-off valve comprising a body (11), a chamber (15), a first duct (13), a second duct (12), a closure member (16, 21, 22), a central core (21), a head (22), wherein the head (22) has a larger diameter than the first duct (13), wherein the head (22) is convex (figure 1), a flexible circular disc (16), wherein the disc (16) is fixed in the chamber (15), an operating means (23), an open position (figure 2), a closed position (figure 1), an inner opening (with element 14 in figure 1), wherein the sealing face (22) partially enters (figure 1) the first duct (13), wherein the disc (16) includes a portion (adjacent element 35 in figure 1) that is directly connected to the internal wall of the second duct (12), wherein the second duct (12) is curved downward, wherein the head (22) is converging, wherein the disc (16) has a surface area that is 10-20% greater than a cross-section (figure 1) of the first duct (13), an actuator body (18), an abutment surface (adjacent element 35 in figure 1), a sealing ring (17), wherein the closure member (16, 21, 22) is one piece, wherein the disc (16) is convex (figure 1), and wherein the first duct (13) is capable of being an inlet, wherein the second outlet (12) is capable of being an outlet.

Regarding the recitation of "upward" recited in claim 17 and "downward" in claims 3 and 21, the examiner considers these relative terms and therefore do not limit the claims.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 3,134,570 (Jarrett) in view of U.S. Pat. No. 4,826,132 (Moldenhauer). Jarrett discloses a shut-off valve comprising a body (11), a chamber (15), a first duct (13), a second duct (12), a

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closure member (16, 21, 22), a central core (21), a head (22), wherein the head (22) has a larger diameter than the first duct (13), wherein the head (22) is convex (figure 1), a flexible circular disc (16), wherein the disc (16) is fixed in the chamber (15), an operating means (23), an open position (figure 2), a closed position (figure 1), an inner opening (with element 14 in figure 1), wherein the sealing face (22) partially enters (figure 1) the first duct (13), wherein the disc (16) includes a portion (adjacent element 35 in figure 1) that is directly connected to the internal wall of the second duct (12), wherein the second duct (12) is curved downward, wherein the head (22) is converging, wherein the disc (16) has a surface area that is 10-20% greater than a cross-section (figure 1) of the first duct (13), an actuator body (18), an abutment surface (adjacent element 35 in figure 1), a sealing ring (17), wherein the closure member (16, 21, 22) is one piece, wherein the disc (16) is convex (figure 1), and wherein the first duct (13) is capable of being an inlet, wherein the second outlet (12) is capable of being an outlet but lacks the closure member being made from a flexible plastic. Moldenhauer teaches a shut-off valve comprising a closure member (10, 12), a disc (12), and wherein the closure member is made of a flexible plastic (col. 3, lines 38-39). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the shut-off valve of Jarrett by making the closure member of a flexible plastic as taught by Moldenhauer in order to create an effective seal in the closed position of the valve.

Allowable Subject Matter

9. Claims 8-10 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

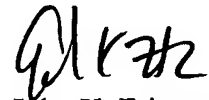
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926. The examiner can normally be reached on Monday-Friday, 7:00 a.m.-4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John K. Fristoe Jr.
Examiner
Art Unit 3751

JKF



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9/11/06